UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/544,036
Filing Date: April 06, 2000
Appellant(s): LIN-HENDEL, CATHERINE.

Anatoly S. Weiser
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/06/06 appealing from the Office

action mailed 06/02/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,211,874	Himmel et al.	04/2001
6,313,854	Gibson	11/2001
6,215,490	Kaply	04/2001
6,208,770	Gilman et al.	03/2001
6,360,205	Iyengar et al.	03/2002
5,793,365	Tang et al.	08/1998
5,966,122	Itoh	10/1999
6,330,575	Moore et al.	12/2001
6,188,398	Collins-Rector et al.	02/13/2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 7, 8, 12-24, 26, 27, 29, 31, 48, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel et al. [US. 6,211,874] in view of Gibson [US. 6,313,854].

As per independent claims 1, 27 and 48, Himmel teaches a computer

implemented method and corresponding system for selecting and

simultaneously displaying a plurality of digitally stored objects comprising the

steps/means:

means for displaying digitally stored objects via a webpage (fig. 5A);

means for enabling a user using input device to select on said webpage a

plurality of the displayed digitally stored objects each displayed digitally stored

object having at least one dynamically linked associated destination object

(Hypertext link of fig. 5A; col. 6, lines 61-67); and

means for enabling the user to submit the plurality of selected objects for

processing (col. 7, lines 26-29);

means for retrieving the at least one dynamically linked destination object for

each selected one of the plurality of the displayed digitally stored objects

together from a storage medium and then simultaneously displaying together

the retrieved destination objects for viewing (fig. 5C; col. 7, lines 26-29 and col.

7, lines 46-67 through col. 8, lines 1-36).

Himmel fail to clearly disclose the plurality of stored objects displayed within a

single window (although Himmel teaches the plurality of stored objects

displayed within a single display). Gibson discloses a plurality of stored window

objects 112a, 112b and 112c displayed within a single window 114 (fig. 6; col.

8, lines 6-43). It would have been obvious to an artisan at the time of the

invention to use the teaching from Gibson of displaying a plurality of stored

window objects displayed within a single window since users can more

effectively manipulate and manage the viewable area of the browser while

preserving the advantages of frames.

As per claim 7, which is dependent on claim 1, Himmel teaches means for

sub-framing information associated with the selected plurality of digitally stored

objects (fig. 5C; col. 7, lines 26-29).

As per claim 8, which is dependent on claim 7, it is inherent in the Himmel's

system that if data in the sub-framed windows (fig. 5C) exceed the sub-framed

windows, a horizontal dynamic scroll bar and a vertical dynamic scroll bar that

allow an orderly arrangement and presentation of textual information would be

presented.

As per claim 12, which is dependent on claim 1, Himmel teaches the selection

means being adapted to select each selected displayed digitally stored object of

the selected plurality of displayed digitally stored objects one at a time by

pointing to a different link-token associated with each different one of the

plurality of displayed digitally stored objects and, after all of the selected

plurality of displayed digitally stored objects have been selected, single clicking

a computer mouse button (from col. 6, lines 61-67 through col. 7 line 1); and

double clicking the computer mouse button retrieving together and

simultaneously displays together the associated destination objects (col. 7, lines

6-11 and from col. 6, lines 61-67 through col. 7, line 1 and col. 7, lines 7-8);

As per claim 13, which is dependent on claim 12, Himmel teaches each one of the different associated link-tokens being a first color and each time one of the plurality of digitally stored objects is selected by single clicking the computer mouse button, the first color changes to a second color to indicate the selection of the digitally stored object (col. 7, lines 20-25).

As per claim 14, which is dependent on claim 13, according to Himmel's web-based system, it is inherent that each one of the selected link-tokens would change to a different (third) color when a browser returns to a list of the plurality of digitally stored objects (fig. 5A) from the retrieved and simultaneously displayed associated destination objects (fig. 5C) to indicate that they have been visited.

As per claim 15, which is dependent on claim 13, Himmel teaches single clicking on the selected link-token de-selecting the link-token so that the link-token reverts to the first color indicating the de-selection of the link-token (col. 7, lines 3-5 and lines 20-25).

As per claims 16, which is dependent on claim 1, Himmel teaches means for selecting the plurality of digitally stored objects one at a time by pointing to and clicking on a different link-token associated with each different one of the plurality of digitally stored objects and clicking the first computer mouse button while holding down the unique control key sequence (from col. 6, lines 65-67 through col. 7, lines 1-3).

As per claim 17, which is dependent on claim 16, it is a similar scope to claim 13; therefore, it should be rejected under similar rationale.

As per claims 18, which is dependent on claim 1, Himmel teaches the selection means being employed and the retrieval means being invoked using a computer mouse having a first button and a second button (one of the mouse buttons; from col. 6, lines 61-67 through col. 7, line 1 and col. 7, lines 7-8), the plurality of digitally stored objects being selected one at a time by pointing to a different link-token associated with each different one of the plurality of digitally stored objects and clicking the first (from col. 6, lines 65-67 through col. 7, lines 1-3), and then after all of the plurality of digitally stored objects have been selected, clicking the second computer mouse button to retrieve and simultaneously display the associated destination objects (col. 7, lines 6-11).

As per claims 19 and 20, which are both dependent on claim 18, Himmel teaches the first one of the retrieved associated destination objects simultaneously displayed for viewing being made larger than the other simultaneously displayed destination objects by using a computer input device to invoke the first destination object, and when the computer input device being used to invoke a second one of the retrieved associated destination objects simultaneously displayed for viewing, the first destination object returns to the same smaller size of the other simultaneously displayed destination objects and the second destination object is made larger then the other simultaneously displayed destination objects. As indicated by fig. 5C, when the user invokes

the first linked web browser by clicking on it, it is made larger than the rest of the linked web browsers, and when the users invoke on the second linked web browser, the first one is returned to the smaller size of the other linked web browsers and the second linked web browser is made larger than the rest of the linked web browsers.

As per claim 21, which is dependent on claim 18, it is a similar scope to claims 13 and 14, therefore, it should be rejected under similar rationale.

As per claim 22, which is dependent on claim 1, Himmel teaches the system being used on a personal computer (fig. 3).

As per claim 23, which is dependent on claim 1, Himmel teaches the system is used with a computer network (fig. 3 and fig. 4).

As per claim 24, which is dependent on claim 1, Himmel teaches the system being used on a CD ROM (fig. 3 and fig. 4).

As per claim 26, which is dependent on claim 1, it is inherent that Himmel's system would be implemented using software.

As per claim 29, which is dependent on claim 27, it is a similar scope to claim 12; therefore, it should be rejected under similar rationale.

As per claim 31, which is dependent on claim 27, Himmel teaches primarily textual content associated with each one of the retrieved associated objects is sub-framed (fig. 5C).

As per claim 49, which is dependent on claim 48, Himmel in view of Gibson teaches each object of the plurality of retrieved linked destination being

displayed in a separate sub-frame within the single window (e.g., Gibson; fig. 6;

each stored window objects 112a, 112b, 112c is displayed in a separate sub-

frame 112a, 112b, 112c within the single window 114).

Claims 2-5, 32-34 and 40-43 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Himmel in view of Gibson and further in view of Kaply [US

6,215,490].

As per claim 2, which is dependent on claim 1, Himmel does not disclose

means for providing a two-dimensional array of graphical thumbnails of the

digitally stored objects. Kaply discloses that in fig. 5A. It would have been

obvious to an artisan at the time of the invention to use the teaching from Kaply

of means for providing a two-dimensional array of graphical thumbnails of the

digitally stored objects in Himmel's system since graphical thumbnails would

give more of a hint (information) than plain texts and two-dimensional array

would accommodate a large number of the digitally stored objects.

As per claims 3, 4, and 5, which are all dependent on claim 2, Kaply's fig. 5A

inherently indicates that the graphical thumbnails in the two-dimensional array

can be selectively scrolled at any one of the plurality of speeds, can be

selectively stopped from scrolling, and can be selectively scrolled vertically and

horizontally.

As per independent claim 32, Himmel teaches a Web electronic document
page displaying simultaneously together a plurality of scrolling sub-framed
arrays (col. 7, lines 18-29 and col. 7, lines 46-67 through col. 8, lines 1-36). It is
inherent in Himmel's system that each sub-framed array is independently and
selectively stopped and scrolled at a selective speed by a viewer (using the
scrollbar control.)

Himmel does not disclose the plurality of scrolling sub-framed arrays displayed
within a single electronic webpage. Gibson discloses a plurality of scrolling sub-
framed arrays 112a, 112b and 112c displayed within a single electronic
webpage 114 fig. 6; col. 8, lines 6-43). It would have been obvious to an artisan
at the time of the invention to use the teaching from Gibson of displaying a
plurality of scrolling sub-framed arrays displayed within a single electronic
webpage since users can more effectively manipulate and manage the
viewable area of the browser while preserving the advantages of frames.

The modified Himmel does not disclose each sub-framed array containing a
frame containing a plurality of thumbnails and a plurality of independently
selectable sub-frames. Kaply discloses a plurality of sub-framed windows
containing scrolling arrays, each sub-framed array containing a plurality of
thumbnails and a plurality of independently selectable sub-frames (fig. 5A). It
would have been obvious to an artisan at the time of the invention to use the
teaching from Kaply of including a plurality of thumbnails in each of the sub-

framed arrays in modified Himmel's system since the thumbnails would give

more of a hint (information) than plain texts.

As per claim 33, which is dependent on claim 32, modified Himmel does not

disclose when a page loads for a first time a default category selected by a

website operator is displayed, and when the page loads for a time other than

the first time, a category corresponding to the category last viewed by the

viewer when they accessed the page is displayed. It is inherent in Himmel's

web-based system that when a multi-frame web page is loaded for the first

time, the default category frame is loaded and when the page is loaded for a

time other than the first time, by hitting the back button, a category

corresponding to the category last viewed by the viewer when they accessed

the page is displayed.

As per claim 34, which is dependent on claim 32, modified Himmel does not

disclose each sub-framed array includes a progress bar indicating how much of

the total array has been viewed, the bar also indicating the beginning and end

of the sub-frame array. Kaply discloses the two vertical and horizontal scrollbars

with the progress bars 160 in fig. 4. It would have been obvious to an artisan at

the time of the invention to use the teaching from Kaply of including a progress

bar in each sub-frame array indicating how much of the total array has been

viewed and indicating the beginning and end of the sub-frame array in the

modified Himmel's system since it would help the users to know where they are

in the arrays of the thumbnails.

As per claim 40, which is dependent on claim 32, modified Himmel does not disclose when a viewer removes a cursor from a thumbnail; the sub-frame array in which the thumbnail resides resumes scrolling. Kaply's system in fig. 58 implies that when the viewer removes the cursor from a thumbnail in order to scroll the scrollbar, the array in which the thumbnail resides resumes scrolling. It would have been obvious to an artisan at the time of the invention to use the teaching from Kaply of removing a cursor from a thumbnail, the sub-frame array in which the thumbnail resides resumes scrolling since the array would reveal to the viewer more available thumbnails.

As per claims 41, 42, and 43, which are all dependent on claim 32, it is inherent in Himmel's window system that the position of the thumbnail relative to the sub-frame array is selectively controllable by the viewer or a website operator; the enlarged image of the thumbnail can be selectively programmed to remain on-screen, be minimized or pushed to the background; the page can display any desired number of sub-frame arrays of interest, the sub-frame arrays able to be manually or automatically extended beyond the screen, scrolled horizontally and vertically, or resized so that all of the sub-frames are viewable.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson and Kaply and further in view of Gilman et al. [US. 6,208,770].

As per claim 6, which is dependent on claim 2, Himmel does not disclose the two-dimensional array of graphical thumbnails having a selectively adjustable number of columns and rows. Gilman discloses that in fig. 6, col. 5, lines 57-59. It would have been obvious to an artisan at the time of the invention to use the teaching from Gilman of the two-dimensional array of graphical thumbnails has a selectively adjustable number of columns and rows in the modified Himmel's system since it would adjust the number of graphical thumbnails to fit on the screen, and it would give a better arrangement of the thumbnails on the screen by the users.

Claims 9-11 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson and further in view of Iyengar et al. [US, 6,360,205].

As per claims 9, 10 and 11, which are all dependent on claim 1, Himmel teaches the selection means including a different link-token associated with each one of the plurality of digitally stored objects (fig. 5A), each one of the plurality of displayed digitally stored objects adapted to be selected one at a time by using a computer input device to select, and de-select, a different link-token such that they are visually highlighted, and back to normal in case of de-selecting, for the user (fig. 5A, 5B; from col. 6, lines 61-67 through col. 7, lines 1-5 and col. 7, lines 18-2 1), a button (multi-link button 115 of fig. 5A) being

invoked to retrieve together and simultaneously display together the associated

destination objects (col. 7, lines 6-1 1 and lines 25-29, and col. 7, lines 46-67

through col. 8, lines 1-36). Himmel does not disclose the selection means

include a different check box associated with each one of the plurality of

digitally stored objects, each one of the plurality of digitally stored and

presented objects being selected one at a time by using a computer input

device to select, and de-select, a different check box such that a check

appears, and disappears in case of de-selecting, in the check box. Iyengar

discloses that in fig. 8. It would have been obvious to an artisan at the time of

the invention to use checkbox selecting and de-selecting in place of Himmel's

link selecting since checkbox method is well known and widely used when

selecting multiple objects on web pages.

As per claim 28, which is dependent on claim 27, it is a similar scope to claim

9; therefore, it should be rejected under similar rationale.

Claims 25 and 30 are rejected under 35 U.S.C. I03(a) as being unpatentable

over Himmel in view of Gibson and further in view of Appellant's admitted prior

art.

As per claim 25, which is dependent on claim 1, Himmel does not disclose the

system being used on a wireless device. This feature is taught by Appellant's

admitted prior art. It would have been obvious to an artisan at the time of the

invention to include the wireless capability in Himmel's system since it would have provided the flexibility and portable to the system.

As per claim 30, which is dependent on claim 27, Himmel teaches selecting each one of the plurality of digitally stored objects one at a time by pointing to a different link-token associated with each different one of the plurality of digitally stored objects and clicking the first computer mouse button while holding down the unique control key sequence (from col. 6, lines 65-67 through col. 7, lines 1-3). He does not disclose clicking the first computer mouse button while holding down the second computer mouse button. This feature is taught by Appellant's admitted prior art. It would have been obvious to an artisan at the time of the invention to use the selecting technique of clicking the first computer mouse button while holding down the second computer mouse button in Himmel's selecting technique since both techniques are considered equivalent.

Then after all of the plurality of digitally stored objects have been selected, clicking the first computer mouse button without holding the second computer mouse button to retrieve and simultaneously display the associated destination objects (col. 7, lines 6-11).

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson and Kaply and further in view of Gavron et al.

As per claim 35, which is dependent on claim 32, modified Himmel does not

disclose when a viewer moves a cursor to a thumbnail of interest, the sub-frame

array stops rolling and high level information regarding the thumbnail appears in

a dialog box positioned approximate to the thumbnail of interest. Kaply's system

in fig. 4 implies that when the users do not scroll the array and move the cursor

to a thumbnail of interest, the array stops rolling. Gavron discloses that in his

figures in steps 3 and 5 page 105. When the user moves a mouse over a

window thumbnail icon, information associated with that icon pop up in a dialog

box that positioned approximate to that icon. It would have been obvious to an

artisan at the time of the invention to use the teaching from Kaply and Gavron

of moving a cursor to a thumbnail of interest, the sub-frame array stops rolling

and high level information regarding the thumbnail appears in a dialog

box positioned approximate to the thumbnail of interest in modified Himmel's

system since the dialog box associated with the interested thumbnail would give

brief information about the thumbnail quickly.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Himmel in view of Gibson and Kaply and further in view of Tang et al [US.

5,793,365].

As per claim 36, which is dependent on claim 32, modified Himmel does not

disclose selecting a thumbnail of interest results in a larger image of the

thumbnail appearing with more detailed information in a sub-frame that the

viewer can scroll manually or that can be automatically scrolled. Tang discloses

when selecting on the interested thumbnail 26 of fig. 5, the larger image of

thumbnail appeared with more detailed information and the viewer can scroll

that sub-frame by the scrollbar (fig. 6). It would have been obvious to an artisan

at the time of the invention to use the teaching from Tang of selecting a

thumbnail of interest results in a larger image of the thumbnail appearing with

more detailed information in a sub-frame that the viewer can scroll manually or

that can be automatically scrolled in modified Himmel's system since the

sub-frame would give more detailed information associated with the selected

thumbnail, and at the same time it would occupy only a small window estate.

Claims 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Himmel in view of Gibson and Kaply and further in view of Itoh [US. 5,966,122].

As per claims 37 and 38, which are dependent on claim 32 and 37

respectively, modified Himmel does not disclose when a viewer selects a

thumbnail of interest, a border surrounding the thumbnail being highlighted

wherein a color of the highlighted border changes to indicate that the image has

been selected and viewed. Itoh discloses that in col. 11, lines 14-19. It would

have been obvious to an artisan at the time of the invention to use the teaching

from Itoh of coloring the highlighted thumbnail border in modified Himmel's

system since it would clearly identify the selected thumbnail.

As per claim 39, which is dependent on claim 38, modified Himmel does not

disclose after viewing the thumbnail the viewer being not interested in the

selected thumbnail, the viewer can close the image and the color of the

highlighted border changes or disappears to indicate that the thumbnail was

viewed but of no further interest to the viewer. Itoh discloses the border of the

selected thumbnail being highlight in color (col. 11, lines 14-19. He does not

specifically disclose, but his system implies that after the viewer closes the

image, the color of the highlighted border changes or disappears to indicate that

the thumbnail was viewed but of no further interest to the viewer. It would have

been obvious to an artisan at the time of the invention to use the teaching

from Itoh of closing the image causing the color of the highlighted border

changes or disappears in modified Himmel's system since it would inform the

viewer that the thumbnail is no longer selected.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Himmel in view of Gibson and Kaply and further in view of Moore et al. [US.

6,330,575].

As per claim 44, which is dependent on claim 32, Himmel's system of sub-

frame arrays windows (in fig. 5C) inherently indicates that they could be

selected and enlarged. Modified Himmel does not disclose the sub-frames can include transactional commands to process a commercial transaction. Moore discloses that in (fig. 15). It would have been obvious to an artisan at the time of the invention to use the teaching from Moore of including transactional commands to process a commercial transaction since it would allow the user to process the commercial transaction immediately after viewing an interested thumbnail.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson and Kaply and further in view of Collins-Rector et al. [US. 6,188,398].

As per claim 45, which is dependent on claim 32, modified Himmel does not disclose the thumbnails display advertising. Collins-Rector discloses that in fig. 2. It would have been obvious to an artisan at the time of the invention to use the teaching from Collins-Rector of displaying advertising in the thumbnails in modified Himmel's system since it would cause attention from the users.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson and Kaply and further in view of Appellant's admitted prior art.

As per claim 46, which is dependent on claim 32, modified Himmel does not disclose the webpage including at least one textual link and at least one graphical link, each link representing a different category of information. The application prior art cited in fig. 3A of shows that user could link to different categories by clicking on textual link "Antiques" and graphical link "Sell your Item". It would have been obvious to an artisan at the time of the invention to use the teaching of including at least one textual link and at least one graphical link, each link representing a different category of information in modified Himmel's system since it would vary the presentation of the pages and make the pages more interesting to the viewers.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Himmel in view of Gibson, Kaply and Appellant's admitted prior art and further in view of Iyengar.

As per claim 47, which is dependent on claim 46, the modified Himmel does not disclose the webpage including at least one control element for controlling the textual and graphical links. Iyengar discloses multiple control elements for controlling the different flight links in fig. 8. It would have been obvious to an artisan at the time of the invention to use the teaching from Iyengar of including at least one control element for controlling the textual and graphical links in

modified Himmel's system to give the user more criteria to filter out the linked

pages.

(10) Response to Argument

The Himmel's reference discloses:

Himmel, at column 3, lines 30-64, shows a method of accessing accessing

interrelated files on a computer system and the computer files are presented in

the form of pages having links, such as hypertext links, which facilitate loading

of related pages.

Himmel further shows simplifying selection of multiple of hypertext links in a

given page. The foregoing objects are achieved in a method of accessing files

located in a computer system, generally comprising the steps of **creating a**

browser window on a display of the computer system, selecting a plurality

of embedded links (such as hypertext links) from at least one page

displayed in the browser window, and processing the plurality of

embedded links concurrently. The embedded links may include at least two

embedded links from a single page displayed in the browser window. A

graphical pointer may be used to select the embedded links. In one

implementation, a pop-up menu is displayed once the links have all been

selected, wherein the pop-up menu has a plurality of menu items associated

with different types of link processing. For example, the processing step may

include: the step of **concurrently displaying pages** associated with the

plurality of embedded links in a plurality of respective browser windows on the

display; the step of concurrently printing pages associated with the plurality

of embedded links using a printing device of the computer system; or the step

of concurrently downloading pages associated with the plurality of embedded

links, to a storage device of the computer system. Selection of the links may

be facilitated by allowing the user to switch to a multi-link selection mode.

The Gibson's reference discloses:

Gibson, at column 4, line 45 through column 5, line 6, shows

a method of accessing an electronic page on a computer system, generally

comprising the steps of ascertaining that the electronic page is adapted to be

displayed as a single window containing a plurality of frames (having fixed

attributes), displaying a plurality of windows on a display device of the computer

system, wherein each window corresponds to a respective one of the frames,

and enabling one or more window operations for each of the windows, such as

the operations of individually resizing, minimizing, maximizing, and closing each

of the windows.

The windowed frames can be displayed as child windows within a parent

window on the display device, or in separate parent windows. The frame

windowing mode can be toggled between active and inactive states. Initial

attributes of the windows can be based on the frame attributes of the respective

frames. These attributes can be ascertained by interpreting tags in a main

computer file associated with the electronic page.

Appellant has argued the following points:

1) The previous filed two declarations under 37 C.F.R. 1. 131 show that in 1996

and 1997, the inventor was in procession of an embodiment of the invention

capable of performing the basic inventive concept commensurate with the

scope of independent claims 1 and 27. The declarations recite specific facts

and include contemporaneously created notes and printout exhibits created

from contemporaneous code. It appears, that Appellant's explanations of

reduction to practice made in the three Rule 131 Declarations have not been

considered.

2) Motivation to combine Himmel and Gibson references is lacking.

3) Gibson does not teach display in a single window of object associated with

selected objects.

The Examiner disagrees for the following reasons:

1) Both Declarations and Exhibits 12/18/03 and 09/30/04 under 37 CFR 1.131

have been considered but is ineffective to overcome the applied references.

a) Appellant seeks to establish prior invention by showing reduction to practice

before 05/15/98 the date of the Himmel's reference.

The evidence submitted is insufficient to establish a conception of the invention

prior to the effective date of the Himmel reference. While conception is the

mental part of the inventive act, it must be capable of proof, such as by

demonstrative evidence or by a complete disclosure to another. Conception is

more than a vague idea of how to solve a problem. The requisite means

themselves and their interaction must also be comprehended. See

Mergenthaler v. Scudder. 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). In

Declaration under 37 C.F.R. 1.131 filed 09/30/2004, second paragraph, claimed

"to put together a variety of mock-up data and programs in the same computer

to demonstrate the base premise of the concept"; however, this concept was

only implemented on a single (or local) computer in 1996 and the Appellant did

not know how to make the concept work from network to network and from

website to website until 1999. Therefore, it raises the question whether or not

the Appellant has a conception before 1999.

The evidence submitted is insufficient to establish a reduction to practice of the

invention in this country or a NAFTA or WTO member country prior to the

effective date of the reference, see MPEP 715.The Exhibits 1-3 comprise the

webpage template of draft code as well as sample display format for the display

of all objects and related items. They are, individually or together, still not

evidence that provide a showing of facts in character and weight. Therefore, the

evidence is still insufficient to establish a "reduction to practice" of the invention

in this country or a NAFTA or WTO member country prior to the effective date

of the reference.

b) In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose. *(See MPEP 715.07)*

For an actual reduction to practice, the invention must have been sufficiently tested to demonstrate that it will work for its intended purpose, but it need not be in a commercially satisfactory stage of development. If a device is so simple, and its purpose and efficacy so obvious, construction alone is sufficient to demonstrate workability. King Instrument Corp. v. Otari Corp., 767 F.2d 853, 860, 226 USPQ 402, 407 (Fed. Cir. 1985). *(See MPEP 2138.05)*.

The evidence submitted is also insufficient to establish diligence from a date prior to the date of reduction to practice of the Himmel reference to either a constructive reduction to practice or an actual reduction to practice. The affidavit fails to establish an alleged reduction to practice prior to the application filing date. There is no evidence provided by the Appellant in the critical period which is the time between the time just prior to the filing date of the Himmel reference to the filing date of this application. MPEP 2138.06 states that "the critical period for diligence for a first conceiver but second reducer begins not at the time of conception of the first conceiver but just prior to the entry in the field of the party who was first to reduce to practice and continues until the first conceiver reduces to practice", and "an Appellant must account for the entire period during which diligence is required".

In determining the sufficiency of a 37 CFR 1.131 affidavit or declaration,

diligence needs not to be considered unless conception of the invention prior to

the effective date is clearly established, since diligence comes into question

only after prior conception is established. Ex parte Kantor, 177 USPQ 455 (Bd.

App. 1958)

However, in the interest of compact prosecution, the examiner notes that the

evidence submitted is insufficient to establish diligence from a date prior to the

effective date of the Himmel reference (05/15/1998) to the US filing date of this

application (04/19/1999) because of periods of lacking activity in the Exhibit 1

without any explanation such as periods of 2 months between May 14, 1998

and July 15, 1998; 5 weeks between July 15, 1998 and August 24, 1998; 5

weeks between August 24, 1998 and October 2, 1998; 6 weeks between

October 2, 1998 and November 15, 1998; 2 months between November 15,

1998 and January 20, 1999; and 4 weeks between January 20, 1999 and

February 25, 1999.

c) There is not enough evidence to clearly prove the relationships between

Declaration, Exhibits 1-3 and the claims. Therefore, no reduction to practice has

been shown and Appellant has failed to establish prior invention.

The declaration and accompanying exhibits do not provide enough evidence to

support all the claimed limitations prior to the reference date, therefore do not

support conception of the claimed invention. For example, there is not

explanation of the exhibits or positive statement on the declaration to support

the limitation "simultaneously displaying together in a single window the

retrieved destination objects for viewing" in claims 1 and 27. Furthermore, there

is not explanation of the exhibits or positive statement on the declaration to

support the limitations "a single electronic webpage", "a plurality of scrolling

sub-framed arrays" and "each sub-framed array able to be independently and

selectively stopped and scrolled at a selective speed by a viewer or website

operation" in claim 32. The aforementioned limitation in claims 1, 27 and 32

merely provides as example of insufficient evidence supporting conception of

the claimed invention. It is to be understood that there are other claimed

limitations that are not sufficiently supported by the evidence provided by the

declaration and the accompany exhibits.

2) There is motivation to combine Himmel and Gibson references. They both

disclose a big single window containing multiple objects. While Himmel

reference teaches plurality browser windows (Himmel, figure 5C, window 114a,

window 114b, window 114c) being contained in the parent window (figure 5C,

parent window 110), Gibson teaches a single window containing a plurality of

frames and the windowed frames can be displayed as child windows (Gibson,

figure 7, Child Window 1, Childe Window 3) within a parent window (figure 7,

114) on the display device. Both Himmel and Gibson teach a single Internet

webpage window contains HTML files and hypertext links. They both disclose a

big single window containing multiple objects. The motivation would have been

to provide users more effectively manipulate and manage the viewable area of

the browser while preserving the advantages of frames.

3) Gibson teaches the feature of "displaying in a single window of object

associated with selected objects". Himmel teaches displaying digitally stored

objects via a webpage (Himmel, figure 5A, displaying stored object Hypertext

link 1, stored object Hypertext link 2, stored object Hypertext link 3, stored

object Hypertext link 4 and stored object Hypertext link 5 via the Web Browser

(30));

Himmel also teaches selecting on the webpage a plurality of the displayed

digitally stored objects, each displayed digitally stored object having at least one

dynamically linked associated destination object (Himmel, figure 5B, Hypertext

links 112a, 112b, 112c are highlighted for selecting); means for retrieving the at

least one dynamically linked destination object for each selected one of the

plurality of the displayed digitally stored objects together from a storage medium

and then simultaneously displaying together in a single window the retrieved

destination objects for viewing (Himmel, figure 5C, all the hypertext links are

displayed on single web browser window). Appellant's attention is directed to

column 3, lines 40-65 that cites "the steps of creating a browser window on a

display of the computer system, selecting a plurality of embedded links (such as

hypertext links) from at least one page displayed in the browser window, and

processing the plurality of embedded links concurrently...For example, the

processing step may include: the step of **concurrently displaying pages**

associated with the plurality of embedded links in a plurality of respective

browser windows on the display...".

It is clearly that each selected hypertext link of the plurality of hypertext links is

retrieved and simultaneously display on the same window.

However, Himmel fails to clearly disclose the feature of "the plurality of stored

objects displayed within a single window for viewing". Gibson teaches a plurality

of stored window objects 112a, 112b and 112c being displayed within a single

window 114 (Gibson, figure 6).

Therefore, the combination of Himmel and Gibson teach all the limitations of

claims 1, 27, 48 and 32

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the

examiner in the Related Appeals and Interferences section of this examiner's

answer.

For the above reasons, it is believed that the rejections should be

sustained.

Respectfully submitted,

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